

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No. 47702 of 2015

Arising Out of PS.Case No. -1 Year- 2015 Thana -KATIHAR GRP CASE District- KATIHAR

Ishwar Rao, Son of Late V. Jagan Mohan Rao, Resident of village - Plot No. 36, Sri Nagar Colony, Kapra P.S. - BCIL, Dist - Ranga Reddy (Hydrabad) Telangana, At present Project Manager, ECI, Engineering and Construction Company Ltd., At Siliguri Railway Yard, Office (West Bengal).

.... Petitioner/s

Versus

The State of Bihar.

.... Opposite Party/s

Appearance :

For the Petitioner/s : Mr.

For the Opposite Party/s : Mr.

**CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH**

ORAL ORDER

3 05-11-2015 Heard learned counsel for the petitioner and learned A.P.P. for the State.

The petitioner apprehends arrest in RPF/Post/(BG) Case No. 1(7)15 dated 02.07.2015 CII 7/2015 instituted under Section 3(a) of the Railways Property (Unlawful Possession) Act, 1966.

The allegation against the petitioner and two others is of transporting copper wire of the Railway without valid papers.

Learned counsel for the petitioner submits that he is the Project Manager at Siliguri of the Company which has been given the contract of electrification for the Railways from Katihar - Barsoi - Raninagar in the Katihar Division of the Northern Railway. It is submitted that the



wires in question were purchased from Noida, in support of which copies of various challan have been annexed. Let the same be kept on record. It is submitted that even from the F.I.R. it is clear that challans were produced relating to wires being transported but the only allegation is that the driver has stated that on the instruction of the petitioner the goods were being taken to Hyderabad though the challan is stated to be of Panjipara Railway station in the State of West Bengal. It is submitted that only on suspicion the case has been instituted. Learned counsel submits that the petitioner had taken a portion of the Railway covered shed godown at Katihar for storage of the materials for the said project on a monthly rent of Rs. 7385/- and thus the wire was being lifted from the said godown for completing the work in another portion. Learned counsel submits that in any view of the matter, once the ownership of the copper wire is established to be of the Company, it being taken from one place to another cannot be said to be illegal and further that the consignment was caught after being lifted from Katihar only on the unsubstantiated suspicion of being taken to Hyderabad and thus it cannot be said that it was being taken to a different place as per the challan. It is further submitted that the petitioner being a simple law abiding citizen has no criminal antecedent.

Learned A.P.P. submits that the materials are suspected to be of the Railways. However, he is not in a

position to controvert the fact that even as per the F.I.R., there is only suspicion and the allegation that the goods as per challan were to be taken to Panjipara Railway station whereas the driver has stated that it was being taken to Hyderabad.

Considering the facts and circumstances of the case and submissions of learned counsel for the parties, in the event of arrest or surrender before the Court below within six weeks from today, the petitioner be released on bail upon furnishing bail bonds of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Rail Judicial Magistrate, Katihar in RPF/Post/(BG) Case No. 1(7)15 dated 02.07.2015 CII 7/2015, subject to the conditions laid down in Section 438(2) of the Code of Criminal Procedure, 1973.

(Ahsanuddin Amanullah, J.)

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